

Appl. No.: 10/740,035
Reply to Office Action of: 07/13/2007

REMARKS

Claims 15-28, 41-42 and 53-56 were rejected under 35 U.S.C. 112, first paragraph. The examiner is requested to reconsider this rejection.

The examiner stated that the specification does not provide support for the element of a flexible label or for clamping members adapted to clamp a flexible label. This is incorrect. Page 10, lines 21-22 clearly describe one embodiment where the label comprises fabric which covers a hinge. See also page 11, lines 23-24. The label has to be flexible or the hinge would not be able to pivot. This can also be seen in comparing Figs. 4A to 4B. See also the first full paragraph on page 12. A label which is flexible is clearly described. The examiner is requested to withdraw his rejection based upon 35 U.S.C. 112, first paragraph.

Claims 15-28, 41-42 and 53-56 were rejected under 35 U.S.C. 112, second paragraph. The examiner stated that the phrase "flexible label" is indefinite because the term "flexible" is a term of degree without guidance to the relative flexibility, and that it is also unclear of the exact structure which is being claimed by the phrase "the clamping members being adapted to clamp a flexible label" due to the use of "flexible" in the phrase. The examiner is requested to reconsider this rejection.

The examiner is directed to MPEP 2173.05(b). The fact that claim language, including terms of degree, may not be precise, does not automatically render the claim indefinite under 35 U.S.C. 112, second paragraph. Seattle Box Co., v. Industrial

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Crating & Packing, Inc., 731 F.2d 818, 221 USPQ 568 (Fed. Cir. 1984). Acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification. A person skilled in the art, knowing that the label could be made of fabric would have no problem understanding the word "flexible"; especially in light of what is shown in Fig. 4A and 4B.

Furthermore, the word "flexible" is not inherently vague or indefinite. It is a common word found in any English dictionary. The examiner's rejection does not appear appropriate. Something is "flexible" when it is capable of being bent or flexed; pliable. There is nothing vague or indefinite. The examiner is requested to reconsider his rejection.

Claims 15, 16, 19-21, 24, 25, 27, 28 and 53-56 were rejected under 35 U.S.C. §102(b) as being anticipated by JP 56-67235. Claims 17, 22 and 23 were rejected under 35 U.S.C. §102(b) as being anticipated by Wood (US 2,304,984). Claims 17, 41 and 42 were rejected under 35 U.S.C. §102(b) as being anticipated by Davis et al. (US 5,897,823). Claims 41 was rejected under 35 U.S.C. §102(b) as being anticipated by Byrne (US 4,162,138). Claim 26 was rejected under 35 U.S.C. 103(a) as being unpatentable over JP 56-67235 in view of Wood (US 2,304,984). The examiner is requested to reconsider these rejections.

Embodiments of the present invention are directed to an injection moulding tool in which a label is clamped and injection material is passed into a mould void. The clamps

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are at the perimeter of the label. The clamps extend into the mould void and hold the perimeter of the label within the mould void. This results in the perimeter of the label being hidden from view by plastic in the final product.

The newly cited prior art is JP 56067235A. This discloses an injection moulding tool comprising a mould void for receiving moulding material to be adhered to the periphery of a label. The label itself is clamped at its central portion. This defines volumes at the periphery of the label (where the label is not clamped) which will be filled with plastic.

Attached as Exhibits 1-3 are annotated copies of Figures 1-3 of the injection moulding tool of JP 56067235A. Figure 2 shows the tool when the two portions, 2a and 3a, are separated. A label, 26 is located adjacent a first mould core 14. When portion 3a is brought into contact with portion 2a, a second mould core 3 is brought closer to the first mould core 14. In addition, clamp 4a clamps the central region of the label 26 against mould core 14.

This can be seen more clearly in figure 3 which shows the tool after both halves of the mould have been brought together. Mould core 3, blocks 7 and 8 and the corner of mould core 14 define a volume for receiving the injected plastic, allowing the moulded material to take the required shape.

Injection material is then allowed to enter the mould void through ducts 6, the material being prevented from making contact with the central portion of the label by the clamp 4a. The material enters the volume at the periphery of the label

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where the label is not clamped. The injection material hardens, taking the shape of the mould void.

Figure 1 shows the finished product. The moulded plastic portion, 2, is adhered to the periphery of the label 1. The void, 1a corresponds to the position of the clamp during the moulding process.

Because the document teaches the clamping of the label at its centre to define volumes at the periphery of the label (where it is not clamped) which will be filled with plastic, it teaches away from embodiments of our invention which disclose a tool which clamps a label at its perimeter.

All the claims currently positively recite this feature. Claim 15 claims that the clamping members clamp the flexible label at its perimeter within the mould void. This is not disclosed or suggested in the cited art.

Claims 17, 22 and 41 have been amended above to explicitly recited the label. The examiner stated that the perimeter clamping is not a function of the structure. The examiner is incorrect. It is inappropriate for the examiner to ignore claimed features. The examiner's attention is directed to MPEP 2173.05(g) which states:

"A functional limitation is an attempt to define something by what it does, rather than by what it is (e.g., as evidenced by its specific structure or specific ingredients). There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper. In re Swinehart, 439 F.2d 210, 169 USPQ 226 (CCPA 1971).

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A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. A functional limitation is often used in association with an element, ingredient, or step of a process to define a particular capability or purpose that is served by the recited element, ingredient or step." (emphasis added)

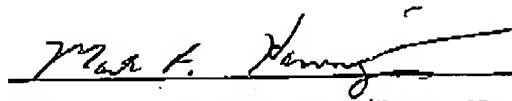
Claim 17 claims that the clamping members are adapted to clamp the flexible label within the mould void. Claim 22 claims that the clamping members are adapted to clamp the label at its perimeter within the mould void. Claim 41 claims that the clamping members are adapted to clamp the label at its perimeter within the first mould void and a plurality of clamping members extending at least partially into the second mould void for clamping the label at its perimeter within the second mould void. The features of the independent claims are not disclosed or suggested in the cited art. Therefore, these claims are patentable and should be allowed.

Though the claims dependent upon the independent claims contain their own allowable subject matter, these claims should at least be allowable due to their dependence from allowable independent claims. However, to expedite prosecution at this time, no further comment will be made.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issue remain, the examiner is invited to call applicants' attorney at the telephone number indicated below.

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Respectfully submitted,


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